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February 9, 2000

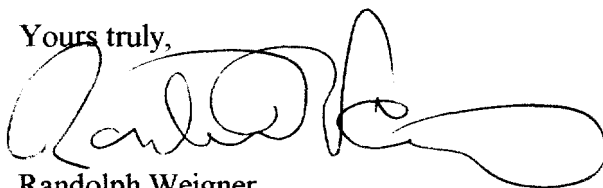
Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth St., S.W.; TW-A325
Washington, D.C. 20554

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Dear Ms. Salas,

Enclosed are the Comments of Commercial Broadcasting Corp. for MM Docket 00-10, Order and Notice of Proposed Rule Making; In the Matter of Establishment of a Class A Television Service hereby sent on February 9, 2000 to be received and filed on February 10, 2000 at the F.C.C.'s Washington Offices. If you have any questions I can be reached at (603) 279-4758.

Yours truly,



Randolph Weigner
President
Commercial Broadcasting Corp.

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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Establishment of a Class A) MM Docket No. 00-10
Television Service)

Comments of Commercial Broadcasting Corp.

Class A status for LPTV stations should not only be attainable when filed for in the time period immediately subsequent to the passage of the Community Broadcasters Protection Act, it should be attainable whenever an LPTV station meets the Rules for qualification or when the Commission determines that the public interest, convenience and necessity would be served by treating the station as a qualifying Class A station.

I agree with the Commission's belief that the CBPA prohibits it from authorizing any other analog or digital service or station proposals that would be predicted to interfere with the protected contours of LPTV stations subsequent to the date the station has filed its certification for Class A eligibility.

The fact that LPTV stations operate at a greatly reduced power level from full service stations places these stations at a permanent competitive disadvantage in their respective markets. The major consequence of these lower power levels is many LPTV stations fail to cover their entire city of license and thus do not get ratings which are necessary to attract the national sponsors full power stations depend on for a large portion of their revenue. As an owner/operator of multiple LPTV stations I can assure the Commission that an LPTV station's level of profitability currently is at best marginal. Indeed the granting of Class A status will not, by itself, increase revenue for any LPTV station; instead should the newly granted Class A stations have to comply with all the Part 73 rules it would place a burden that would drive most LPTV stations from small profit to loss. Especially burdensome would be the requirement that Class A stations maintain full studios within their market areas and maintain offices staffed by two full time employees not in management; should the Commission decide to require Class A stations to operate under Part 73 Rules I believe the preceding requirements should be waived. I propose that Class A stations continue to operate under Part 74 rules, although I see no reason for Class A stations not complying with the Commission's wishes for the Part 73 requirements for informational and educational children's programming, limits on commercialization during children's programming, the political programming rules and the public inspection file rule.

Alternative eligibility criteria for Class A status, indeed what I believe should be the only eligibility criteria for Class A status, should include all LPTV stations broadcasting 18 or more hours a day on a continuous yearly basis. Whatever the final rules for determining eligibility for

Class A they should certainly be no more restrictive or different from the Rules governing full power stations. Since these Rules do not include any set amount of local programming this requirement should be dropped as one of the criteria for determining Class A status. There should be no different criteria for determining Class A status for different types of stations.

Stations operating between 698 and 806 Megahertz that qualify should be extended Class A protection to the "in-core" channel applied for as soon as the Commission grants the said stations construction permit. Granting Class A status in this manner would assure the station would not be subject to potentially competing applications, allow the station time to get financing, if necessary, and complete construction in a timely manner.

The off limit channels, at the conclusion of the DTV transition, will become available for use as the full power stations return their additional channel. Class A or LPTV stations should have the opportunity to switch to these returned channels on a "first come-first served" basis without being subject to competing applications. Many licensed and operating LPTV stations were displaced from these, their original channels, to make way for the DTV transition for full power stations, almost always to less desirable channels with inferior coverage compared to their prior channel. The ability for these formerly displaced stations to reclaim the original channel and/or coverage area would seem only fair, without subjecting them to competing applications, considering the original sacrifice made during the transition to DTV. Channels 2 through 6 should likewise be available to formerly displaced stations.

Class A primary service must mean just that; primary service. Primary service must mean that any applications filed by any entity after 11-29-99, be they NTSC, DTV, etc., must protect the full service contour of Class A stations out to the Class A station's **grade "B"** coverage area with no exceptions for any reason whatsoever. Only applications filed without requesting a waiver of the 1987 full power filing freeze filed prior to 11-29-99 should take precedence to Class A stations. Full power stations requesting a waiver of the 1987 filing freeze should not be protected against Class A operating and licensed stations as when these applications were originally filed the applicants knew there was a freeze for new full power applications due to limited channel space and there was a good chance their applications wouldn't be granted, much the way LPTV stations knew they were filing for a "secondary" service and would have to yield to full power stations (which LPTV did and now has had to make due with what was ultimately left after all the existing full power stations alternate DTV channel's needs were satisfied). Class A stations should not be required to protect any service not previously protected as of 11-29-99.

DTV maximization should apply only to the extent that the DTV stations be allowed to change power and antenna height in order for the DTV station to replicate its existing NTSC grade "B" contour as was the Commission's original intent. I ask the Commission to thus limit maximization of DTV stations for the following reasons: the DTV transition has already caused a massive displacement of previously permitted and licensed LPTV stations; these displaced LPTV stations have gone to great trouble and expense to replicate their former stations on alternate often adjacent channels to DTV stations; maximization of DTV stations beyond their existing NTSC grade "B" contour would again cause displacement of once displaced stations due to interference and in addition cause to be displaced new and more distant LPTV stations, resulting in the subsequent loss to the viewing public of these existing and licensed LPTV stations while not increasing the population covered by the "maximized" DTV station to any meaningful degree.

Indeed the loss of these aforementioned LPTV stations would result in an overall net loss of population able to view existing programming and as such would serve neither the public interest, convenience nor necessity. Limiting DTV maximization to replication of existing NTSC grade "B" contours would solve the problem of DTV stations switching DTV operations to their original analog channel in terms of further disruption of Class A or LPTV service as all LPTV stations now broadcasting have had to previously engineer their stations to avoid interference from existing full power analog stations and as such would not be disrupted by the switch from analog to digital broadcasting.

DTV stations requesting an adjustment to the DTV table of allotments for technical reasons that would impinge on a Class A station's service area should be required to show this modification can only be made in this manner in order to prevent the unnecessary disruption of a primary service for reasons which might include higher cost or be of an anticompetitive nature. A Class A or LPTV station displaced under this adjustment should be permitted an exchange of channels.

Due to the present extended length of time between filing windows for major changes to existing LPTV stations, the relief proposed by the Commission increasing the flexibility to change facilities outside of filing windows is a significant improvement. The Commission notes as a practical matter many NTSC stations are precluded from maximizing their facilities in congested areas due to interference from and to existing facilities. In less congested areas maximization of existing facilities would not be desirable due to the small increase in population covered compared to cost. Class A and LPTV stations seeking to increase their coverage would therefore be unnecessarily constrained by these theoretical facilities which would or could never be realized. Thus, it would seem reasonable to adopt a "first come-first served" approach granting Class A and LPTV stations the ability to increase coverage based upon protecting only the current actual facilities of these stations without subjecting the minor modification to a petition to deny filing period. Class A and LPTV stations minor changes should include the ability to increase power to the highest power levels currently available with no limits in height of antenna so long as no interference is caused to existing facilities.

All displacement relief applicable to LPTV should be applicable to Class A stations. No priority for mutually exclusive applications should be given to Class A stations. Class A and LPTV stations should be given four letter call signs without the "LP" suffix. Class A transmitters should be subject to the less stringent Part 73 verification requirements. Finally, since the granting of Class A status will not of itself increase a station's revenue, Class A stations should continue to be subject to the same regulatory fees as LPTV stations.